IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

H.C.P.No.540 of 2006

Manoharan .. Petitioner

-vs-

1.State of Tamil Nadu
Rep. by its Secretary to Government
Prohibition and Excise Department,
Fort St.George, Chennai 600 009.

2.The District Collector
and District Magistrate
Tiruvannamalai District
Tiruvannamalai. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the respondents to produce the detenue viz., Tmt. Shanthi, wife of Manoharan, who is now detained in Special Prison for women, Vellore in pursuance of the detention order passed by the second respondent on 26.04.2006 in No.27/2006-C2 before this Court, call for the records, set aside the order and set the detenue at liberty forthwith.

For Petitioner : Mr.S.Swamidoss Manokaran
For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the husband of the detenue by name Shanthi, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 26.04.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenue, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenue dated 05.05.2006 was received by the Government on 09.05.2006 and the remarks were called for on 10.05.2006 and the representation of the detenue was received from the Government on 12.05.2006 and the parawar remarks were called for from the Sponsoring authority on the same day i.e. on 12.05.2006 and the remarks were received from the sponsoring authority on 18.05.2006. Thereafter, the remarks were received by the Government on 19.05.2006 and the File was submitted on 22.05.2006 and the same was dealt with by the Under Secretary on the same day i.e. 22.05.2006 and by the Deputy Secretary on 23.05.2006 and finally, the Minister for Prohibition and Excise passed orders on 24.05.2006. The rejection letter was prepared on the same day i.e. on 24.05.2006 and the same was sent to the detenue on 26.05.2006 and served to her on 29.05.2006. As rightly pointed out by the learned counsel for the petitioner, though parawar remarks were called for from the sponsoring authority on 12.05.2006, the remarks were received from the sponsoring authority by the Collectorate only on 18.05.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks to the Collectorate is on the higher side and we hold that the said delay has prejudiced the detenue in disposal of her representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1.The Secretary to Government
State of Tamil Nadu
Prohibition and Excise Department,
Fort St.George,
Chennai 600 009.

2.The District Collector
and District Magistrate
Tiruvannamalai District
Tiruvannamalai.

3. The Superintendent,
Spl. Prison for Women
Vellore.

4. The Joint Secretary to Government
Public (Law and Order)
Fort. St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.540 of 2006

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